

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

JOE H. BRYANT, JR.

PLAINTIFF

v.

CAUSE NO: 3:05-cv-179 TSL

MISSISSIPPI MILITARY DEPARTMENT, et al.

DEFENDANTS

DEFENDANTS' SECOND MOTION FOR SUMMARY JUDGMENT

Pursuant to leave of the Court, the defendants (with the exception of Greg Malta who represents himself *pro se*) moves the Court for summary judgment on the plaintiff's allegations made in paragraph 43(d) of the Amended Complaint that various defendants filed lawsuits against him in retaliation for his having reported wrongdoing to the Air Force IG.

These claims should be dismissed as a matter of law under 42 USC § 1985(1) because Bryant failed to state a claim. He has no duty imposed by his military office to report wrongdoing. Even if the plaintiff had a military duty, his claims would be barred by the First Amendment which protects the filing of retaliatory lawsuits that are not objectively baseless.

Bryant's claims against the persons filing individual lawsuits further fail to state a claim because they cannot constitute a conspiracy as a matter of law.

The plaintiff is procuring affidavits in support of this motion. In view of the one day notice in which the plaintiff had to file this, time did not permit the obtaining of those affidavits from out-of-town witnesses any earlier.

Dated: April 22, 2008.

Respectfully submitted,

/s/ Michael Farrell

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CERTIFICATE OF SERVICE

I certify that on April 22, 2008, I had this document electronically filed with the Clerk of the Court using the ECF system which should have sent notification to the following:

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